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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,538	12/28/2001	Stephen D. Pacetti	50623.149	3811
7590 01/05/2007 Squire, Sanders & Dempsey L.L.P. Suite 300 One Maritime Plaza San Francisco, CA 94111			EXAMINER CAMERON, ERMA C	
			ART UNIT	PAPER NUMBER
			1762	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/05/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/040,538

Applicant(s)

PACETTI ET AL.

Examiner

Erma Cameron

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-26 and 33-78 is/are pending in the application.
- 4a) Of the above claim(s) 7,12,14,37-40,42,43,47 and 61-70 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,9-11,13,15-26,33-36,41,44-46,48-60 and 71-78 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Election/Restrictions

1. Claims 7, 12, 14, 37-40, 42-43, 47 and 61-70 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: they are independent or distinct as discussed previously, and as acknowledged by the applicant in the 10/13/2006 response. In addition, it is a burden for the examiner to consider as many species as the applicant would like. In addition, the applicant is reminded that elections were made on 3/24/2004 and 7/02/2004 WITHOUT traverse.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 7, 12, 14, 37-40, 42-43, 47 and 61-70 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

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Claim Rejections - 35 USC § 102

2. Claims 1-6, 11, 13, 17-19, 21-24, 33-36, 44, 46, 48-54, 57-60, and 71-72 are rejected under 35 U.S.C. 102(e) as being anticipated by Castro et al. (US 6,395,326).

Examiner maintains the rejection of the previous office action for claims 1-6, 11, 13, 17-19, 21-24, 33-36, 44, 46, 48-54, 57-60 and 71-72.

Claim Rejections - 35 USC § 103

3. Claims 9-10, 15-16, 20, 25-26, 41, 45, 55, 56 and 73-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Castro et al.

Examiner maintains the rejections of claims 9-10, 15-16, 20, 25-26, 41, 45, and 55-56 for the reasons outlined in the previous office action.

Examiner adds claims 73-78 to this rejection, as necessitated by amendment. The anhydrous gas of Castro would be inclusive of argon and nitrogen. The T of claim 76 is inclusive of room temperature, and the T of claim 77 is only slightly above room temperature.

4. Claims 1-6, 9-11, 13, 15-26, 33-36, 41, 44-46, 48-49, 51-58, 60 and 71-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ding et al. (US 6,358,556) in view of You et al. (US 6,407,009).

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Examiner maintains the rejection of claims 1-6, 9-11, 13, 15-26, 33-36, 41, 44-46, 48-49, 51-58, 60 and 71-72 (mistakenly written as 70-71).

Examiner adds claims 73-78 to this rejection. You teaches heated or cooled inert gases to adjust the evaporation of a coating from a substrate, depending on how volatile the solvent is (5:37-40; 7:52-8:11).

Response to Arguments

5. Applicant's arguments filed 10/13/2006 have been fully considered but they are not persuasive.

Castro:

The applicant has argued that Castro does not teach heated gas. The examiner disagrees. Castro teaches air pressure to deliver the coating, including bursts of air pressure (9:26-37), and also teaches a heating assembly 52 with a heating nozzle 56 to control the drying of the coating (11:11-53).

Ding and You:

The applicant has argued that Ding fails to teach directing a gas onto the stent. The examiner disagrees. Ding teaches coating a stent using an air brush device (3:47-58). The applicant has also argued that there is no motivation to combine Ding and You. The motivation to combine is to add the controlled drying aspects of the You invention to the Ding process, not

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to “correct” conformity of the Ding coating. The applicant has also argued that the two references teach away from each other. The examiner disagrees in that only certain aspects of the You process (that is, the control of the drying by adjusting the T of the gas blown onto the coating, depending on the volatility of the solvent being used) are being added to the Ding process, and the fact that Ding has open lattice work and You does not is immaterial to the combination. The applicant has also argued that You only teaches the application of a cooled gas to inhibit the solvent evaporation. The examiner strongly disagrees. You teaches either cooling the gas or heating the gas , depending on the volatility of the solvent being used (7:52-8:11) (8:5-7: “Conversely, for solvents which are not as volatile as naphtha or methylisobutylketone, a higher temperature in the chamber can be advantageously used without an undesirably high rate of evaporation.”).

Declarations under 37 CFR 1.132

6. The Declarations under 37 CFR 1.132 filed 10/13/2006 is insufficient to overcome the rejection of claims 1-6, 9-11, 13, 15-26, 33-36, 41, 44-46, 48-60 and 71-78 based upon 6395326 as set forth in the last Office action because: the declarations offer no substantive reasons for their statements that 6395326 does not teach each of the independent claims, and are merely opinion.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erma Cameron whose telephone number is 571-272-1416. The examiner can normally be reached Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on 571-272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**ERMA CAMERON
PRIMARY EXAMINER**

Erma Cameron
Primary Examiner
Art Unit 1762
December 31, 2006